

mony and money to carry on the suit, was allowed the wife, though the husband put in a plea, supported by affidavits denying the marriage. In the case of *Stanford vs. Stanford*, *ibid.*, 317, the wife was allowed temporary alimony, up to the final decree, notwithstanding a jury, upon a feigned issue, had found a verdict of adultery against her. The cases of *Robertson vs. Robertson*, and *Murray vs. Murray*, reported in the same book, 361 and 382, furnish further, and strong evidence of the inflexibility of the rule, that under all circumstances, and entirely irrespective of the merits, the marriage being admitted or proved, the wife will be allowed temporary alimony, and money to prosecute or defend the suit, when separated from her husband, unless she has an income of her own, sufficient for those purposes.

The case of *Hammond vs. Hammond*, 1 *Clarke*, 151, in which most of the previous decisions in New York, were considered, is strong confirmation of the rule, and it will be found, upon examination of the cases in the English ecclesiastical courts, that the same principle prevails there. *Bird vs. Bird*, 5 *Eng. Eccl. Rep.*, 366, and the note to the case, show how firmly the rule is adhered to, so far as relates to the liability of the husband to maintain his wife, and defray the expenses of the suit, during its progress, though at its termination, in a case of gross fraud, the wife may be condemned in costs, and *Fitzgerald vs. Fitzgerald*, *ibid.*, 472, is a further confirmation of the rule.

It appears, by some of the cases in New York, that where the wife is the defendant, in a suit for a divorce, brought by the husband, upon the charge of adultery, she will not be allowed alimony pending the litigation, and to enable her to defend the suit, unless, in her petition, she denies, on oath, the charge of adultery, or show a valid defence, by reason of condonation, or otherwise; but if she does make such denial, or otherwise present a valid defence, the court will not undertake to investigate or decide the merits, and will make the allowance. *Wood vs. Wood*, 2 *Paige*, 108; *Osgood vs. Osgood*, *ib.*, 621.

In this case, the bill was filed by the wife, and she alleges,